

Resources

Further Appeals of Property-Classification Decisions Now Allowed!

May 31, 2011

The Michigan Supreme Court has ruled that taxpayers have the right to appeal to the Michigan circuit courts property-classification decisions made by the *State Tax Commission (STC)* (*Midland Cogeneration Venture, LP, et al v. State Tax Commission*).

Personal property classified as "industrial personal property" is exempt from a significant portion of the mills levied against personal property under Michigan's General Property Tax Act. Also, for a limited period of time, the recently replaced Michigan Business Tax Act allowed for credits against MBT liability for property taxes paid on industrial personal property. The local tax assessor is charged with classifying personal property, choosing among five broad categories: agricultural, commercial, industrial, residential, or utility as defined by MCL 211.34c. Taxpayers may protest the classification to the local board of review, and the board's decision may be appealed to the STC by June 30. MCL 211.34c(6), the specific statutory provision at issue in this case, states that an STC decision regarding property classification is final, and no appeal is permitted.

The Court ruled on an appeal involving nine consolidated cases where the taxpayers had machinery and equipment that was classified as something other than industrial personal property. Most of the taxpayers had property that was classified as "commercial personal property." After unsuccessfully protesting their property classifications to the appropriate boards of review and to the STC, each of the taxpayers prevailed in various Michigan circuit courts. The STC and the local assessors appealed these circuit court decisions to the Michigan Court of Appeals, which consolidated the cases and, citing the prohibition of appeals of the STC under MCL 211.34c(6), reversed the circuit court judgments.

The Michigan Supreme Court granted leave to appeal and issued its opinion on May 23, 2011, stating that the statutory provision denying taxpayers the right to appeal the STC's property-classification decision violates Article 6, § 28 of the Michigan Constitution. The Court concluded that the legislature may dictate the manner in which the judicial review may occur but not whether it can occur at all. In other words, statutes may, among other things, prescribe time frames for filing an appeal, permit or deny the ability of a party to obtain a stay during appeal, or determine the factors the court should use in its review. But the legislature cannot prevent a judicial appeal altogether.

How a local assessor classifies your property can have a significant impact on your overall property tax liability. Dykema attorneys have experience in navigating the entire appeals process. There are very specific requirements and limited time frames available at each step.

If you would like more information on how this Michigan Supreme Court decision may impact your particular situation, please contact any of the attorneys listed in the sidebar.

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Further Appeals of Property-Classification Decisions Now Allowed! (Cont.)

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